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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,674	12/04/2003	Toru Mizutani	09792909-5789	8467

7590 08/04/2008  
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EXAMINER
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GOFF II, JOHN L

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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08/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/727,674	<b>Applicant(s)</b> MIZUTANI ET AL.	
	<b>Examiner</b> John L. Goff	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14,26,27 and 29-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14,26,27 and 29-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/768,093.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the arguments filed on 3/24/08.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 103***

3. Claims 14, 26, 27, 29-32, 34, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatta et al. (WO 00/26976 or U.S. Patent 6,797,430) in view of JP 01320769 (See also the abstract).

The body of the rejection is the same as that set forth in paragraph 6 of the office action mailed 3/22/07.

4. Claims 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatta et al. and JP 01320769 as applied to claims 14, 26-32, 34, and 36 above, and further in view of JP 11140209.

The body of the rejection is the same as that set forth in paragraph 7 of the office action mailed 3/22/07.

#### ***Priority***

5. Applicant cannot rely upon the foreign priority papers to overcome Hatta (WO 00/26976 or U.S. Patent 6,797,430) because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15. It is noted applicants have filed a certified

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English translation of JP 10-311482. However, the referred to priority document, JP 10-311482, appears to be incorrect. The priority document, JP 10-311482, is the foreign priority document for Hatta (WO 00/26976 or U.S. Patent 6,797,430) not the instant application. The instant application relies upon foreign priority document, JP P2000-081860. Should applicants perfect the priority of JP P2000-081860 and establish through proper support for the claims a priority date of March 17, 2000 then the rejections over Hatta (PCT WO00/26976 having a publication date of May 11, 2000 or U.S. Patent 6,797,430 having a priority date of December 26, 2000) would be withdrawn.

#### ***Allowable Subject Matter***

6. Claims 14, 26, 27, and 29-36 would be allowed upon the perfection of applicants foreign priority to overcome Hatta (WO 00/26976 or U.S. Patent 6,797,430) for the reasons set forth in paragraph 10 of the office action mailed 3/22/07.

#### ***Response to Arguments***

7. Applicant's arguments filed 10/31/07 have been fully considered but they are not persuasive.

Applicants argue, "The present application was filed in the U.S. on December 4, 2003, and claims foreign priority to Japanese application 2000-081860 filed March 17, 2000.

Therefore, Applicants' present application has an effective filing date of at least as early as March 17, 2000 based on Japanese application 2000-081860. A certified copy of Applicants'

Japanese priority application is of record in the file for the present application. Applicants submit separately herefrom a certified translation of Japanese priority application 2000-081860.”.

The examiner has previously noted the certified copy of the priority document has been received. A certified translation of the priority document has not been received. The examiner called applicants representative on 7/23/08 to determine if the certified translation was submitted. However, the examiner was not provided with the translation nor was the examiner informed such had been separately submitted.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571) 272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/  
Primary Examiner, Art Unit 1791